

**CIVIL CASE NO. 3:08cv142**

**Defendant.**

## ORDER

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Carl Horn, III was designated to consider the Defendant's Motion to Dismiss, To Stay Time For Filing Answer, and To Compel Arbitration [Doc. 10]. On August 8, 2008, the Magistrate Judge entered an Order [Doc. 17] granting the Defendant's request to compel arbitration and staying this matter pending arbitration. The Magistrate Judge further issued a Memorandum and

Recommendation [Doc. 17], recommending that the Defendant's Motion to Dismiss [Doc. 10] be denied.

The Defendant now objects to the Magistrate Judge's Memorandum and Recommendation and Order. While the Defendant does not object to the Magistrate Judge's disposition of the Motion to Dismiss, To Stay Time For Filing Answer, and To Compel Arbitration, the Defendant argues that certain aspects of the "Procedural and Factual Background" portion of the Magistrate Judge's Memorandum contains factual errors, which the Defendant contends should be corrected in the interest of ensuring a complete and accurate record. In this regard, the Defendant objects to two instances in which the Defendant contends the dates of certain events are misstated. [Doc. 19 at 2, 3]. The Defendant further objects to a portion of the "Procedural and Factual Background" on the grounds that it "misstate[s] the record with regard to the parties' respective positions on the separation agreement underlying Plaintiff's claims." [Id. at 3].

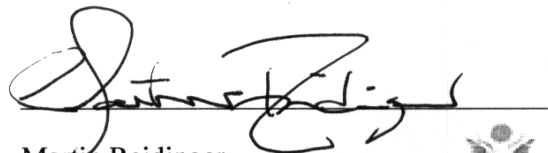
The recitation of facts in the Memorandum regarding the separation agreement is an accurate summary of the facts as alleged by the Plaintiff in her Complaint. At this stage in the proceedings, the Plaintiff's allegations must be accepted as true. See Mylan Labs, Inc. v. Matkari, 7

F.3d 1130, 1134 (4th Cir. 1993), cert. denied, 510 U.S. 1197, 114 S.Ct. 1307, 127 L.Ed.2d 658 (1994). With respect to the other alleged factual errors, the “Procedural and Factual Background” portion of the Magistrate Judge’s Memorandum and Recommendation and Order merely provides a general background of the facts and procedural history of the case. These facts were not controlling with regard to the ultimate disposition of the Defendant’s motion. Further, these were merely preliminary findings and therefore are not binding on any of the parties going forward in this litigation.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant’s Objections to Memorandum and Recommendation and Order of Magistrate Judge [Doc. 19] are **OVERRULED**.

**IT IS FURTHER ORDERED** that the Magistrate Judge’s Recommendation [Doc. 19] is **ACCEPTED**, and the Defendant’s Motion to Dismiss [Doc. 10] is **DENIED**.

Signed: August 27, 2008

  
Martin Reidinger